



Testimony to the Michigan Senate Committee on Natural Resources and Environmental Affairs  
Michigan House Committee on Great Lakes and Environment

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Great Lakes—St. Lawrence River Basin Water Resources Compact  
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Chair Birkholz, Chair Warren, Committee members, I am David Naftzger, Executive Director of the Council of Great Lakes Governors. I am pleased to submit this testimony regarding legislation to ratify the *Great Lakes—St. Lawrence River Basin Water Resources Compact* (Compact) in the State of Michigan.

The Council of Great Lakes Governors is a non-partisan partnership of Governors from each of the eight Great Lakes States--Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin. Through the Council, the Governors have partnered with the Premiers of Ontario and Québec to advance the environmental health and high performance economy of the entire Great Lakes region. Toward this end, the Governors and Premiers asked the Council to facilitate the negotiations that ultimately led, on December 13, 2005, to the signing of the *Great Lakes—St. Lawrence River Basin Sustainable Water Resources Agreement* (Agreement) and the Governors' endorsement of the companion Compact, a legally binding agreement among the eight Great Lakes States. The Agreement and Compact detail how the States and Provinces will manage and protect the waters of the Great Lakes and St. Lawrence River Basin.

### ***Current Status***

The Governors and Premiers are working aggressively to put the Agreement and the Compact into law. In the United States, each of the eight State legislatures must ratify the Compact and Congress must provide its consent. After this, the Compact will become both State and federal law. In order to put the Agreement into law in Ontario and Québec, the Provinces must amend their statutes and regulations as appropriate. In June 2007, **Ontario** passed the Safeguarding and Sustaining Ontario's Water Act which fulfils Ontario's commitment to pass legislation implementing the Agreement. The **Québec** National Assembly approved the Agreement in 2006 and is taking further steps to fully implement its terms. No federal legislation is required in Canada.

In 2007, the Great Lakes States have taken significant steps to enact the Compact:

- **Minnesota** became the first State to ratify the Compact on February 20.
- **Illinois** ratified the Compact on August 17.

- The Compact has passed both houses in **New York**. The Assembly is considering the companion legislation passed by the Senate, and if approved, is expected to be sent to the Governor for signature.
- As you know, a bipartisan coalition representing more than two-thirds of the **Michigan** Senate and 40 members of the Michigan House are co-sponsoring legislation to implement the Compact.
- Compact legislation has also been introduced in **Indiana** and **Pennsylvania**.
- Discussions are ongoing in **Wisconsin** and **Ohio**.

### ***Regional Support***

The Compact before you today has broad-based and bi-partisan support across the Great Lakes region. It was endorsed by the Great Lakes Governors in December 2005 and, since that time, has gained the support of many others:

#### State legislative support.

- In 2007, Compact legislation was approved by the Illinois Senate and House, Minnesota Senate and House, and the New York Senate and Assembly.
- In 2006, Compact legislation was passed by the New York Assembly and the Ohio House.
- Endorsed by the Midwest Legislative Conference of the Council of State Governments.
- In Michigan:
  - Senator Patty Birkholz with bi-partisan support has introduced Bill 0212 to implement the Compact. The bill has 25 co-sponsors: Senators Bill Hardiman, Michael Prusi, Glenn Anderson, Gerald Van Woerkom, Jason Allen, Michelle McManus, Thomas George, Valde Garcia, Randy Richardville, Cameron Brown, John Pappageorge, Nancy Cassis, Tony Stamas, Ron Jelinek, Mark Jansen, Michael Switalski, Wayne Kuipers, Liz Brater, Gretchen Whitmer, Raymond Basham, Gilda Jacobs, Roger Kahn, Mark Schauer, Judson Gilbert and Jim Barcia.
  - There is bi-partisan support behind two bills in the Michigan House that would implement the Compact.
    - House Bill 4343 is sponsored by Representative Kate Ebli with 30 co-sponsors: Andy Coulouris, Mike Simpson, Kathleen Law, Marie Donigan, Mary Valentine, Bob Constan, Kathy Angerer, Rebekah Warren, Gary McDowell, Mark Meadows, Robert Jones, Robert Dean, Terry Brown, Barb Byrum, Pam Byrnes, Lisa Wojno, Gabe Leland, Marc Corriveau, John Espinoza, Gino Polidori, Michael Sak, Richard Hammel, Ted Hammon, Michael Lahti, Steven Lindberg, Brenda Clack, Joel Sheltroun, Doug Bennett, Barbara Farrah and Joan Bauer.
    - House Bill 4336 is sponsored by Representative Phillip Pavlov with eight co-sponsors: David Palsrok, David Law, Tim Moore, Kenneth Horn, Daniel Acciavatti, Arlan Meekhof, Judy Emmons and John Proos.

#### Selected other endorsements.

- Great Lakes and St. Lawrence Cities Initiative (Grand Rapids Mayor George K. Heartwell, Secretary and Director).
- Regional media including, in Michigan: *Detroit Free Press*, *WDIV/Local 4 (Detroit)*, *Lansing State Journal*, *Flint Journal*, *Muskegon Chronicle*, *Saginaw News*, *Bay City Times*, *Oakland Press*, *Macomb Daily*, and the *Daily Mining Gazette*.

- Regional stakeholders representing various interests.

### ***The Need to Act Now***

Michigan, the Great Lakes State, has an excellent opportunity to demonstrate its regional leadership by ratifying the Compact. And, because it is the only State almost entirely in the Great Lakes—St. Lawrence River Basin, Michigan arguably has the most at stake in ensuring that the Great Lakes are managed sustainably. Clearly, Michigan tourism, shipping, agriculture and industry, as well as fish and wildlife, depend on the Great Lakes.

Perhaps most importantly, the Compact will help to keep water management authority in the hands of both the region as a whole and the individual States who will administer the Compact. The Compact provides for flexibility as to its implementation, administration, and interpretation when decisions are made at the State level. And, except for reviewing some of the exceptions to the prohibitions against diversions, most of the decision making will take place at the State level. Each State will decide, within certain parameters, what water use proposals will be subject to the Compact, the process for reviewing those proposals, and how the standard in the Compact will be applied. Each State, within certain common parameters, will decide what is a new or increased diversion, consumptive use or withdrawal.

The concern with the current legal framework is that it is vulnerable to intervention by either the Courts or Congress. Current federal law regarding water diversions from the Great Lakes is legally vulnerable. Of course, litigation in federal courts is frequently time-consuming, costly and unpredictable. And, in any event, decisions in courts are ultimately made by judges rather than elected Great Lakes leaders. As the specter of legal challenge looms, similarly, Congress could act at any time to direct how decisions will be made regarding the Great Lakes. For example, Congress could exercise its Commerce Clause powers to amend federal law relating to the Great Lakes, allowing both Great Lakes water and Great Lakes water management authority to be diverted out of the region. The Compact reflects a means to avoid either of these outcomes and maintain decision-making authority in this region under both State and federal law. The longer this step is delayed, the greater the risk.

The Great Lakes are perhaps our region's greatest resource. In order to protect the Lakes, the Governors recognize that:

- There are threats to the Basin now, and they could increase in the future. We must look ahead and take protective steps to avoid conflicts and shortages in the future.
- The Great Lakes and St. Lawrence River Basin is critical to our economy. We must use the water wisely to help ensure that it remains at healthy levels and to maintain our region's competitive economic advantage.
- We must preserve and protect these waters now and for future generations. That will be our legacy for our children and grandchildren.

### ***Background and Overview***

Following a nearly five-year development process involving thousands of people, the Governors and Premiers signed the Agreement and the Governors endorsed the companion Compact on December 13, 2005. The agreements detail how the States and Provinces will manage and protect the Basin and provide a framework for each State and Province to enact laws for its protection. The agreements include the following points:

- Economic development will be fostered through sustainable use and responsible management of Basin waters.
- In general, there will be a ban on new diversions of water from the Basin with limited and strictly regulated exceptions only when rigorous standards are met.
- The States will use a consistent standard to review proposed uses of Basin water. The States will have flexibility regarding their water management programs and how to apply this standard.
- Regional goals and objectives for water conservation and efficiency will be developed, and they will be reviewed every five years. Each State will develop and implement a consistent water conservation and efficiency program that may be voluntary or mandatory.
- The collection of technical data will be strengthened, and the States will share comparable information, which will improve decision-making by the governments.
- There is a strong commitment to continued public involvement in the implementation of the Compact.

### ***Development and Public Participation Process***

In order to negotiate and draft new agreements to maintain water management authority in the region, in 2001 the Governors and Premiers created a Working Group made up of senior State and Provincial representatives. Michigan was represented by a number of individuals during the course of the negotiations. During Governor Engler's tenure, Michigan participants included Dennis Schornack, Governor Engler's Special Advisor for Strategic Initiatives; Matt Hare, Governor Engler's Natural Resources Policy Coordinator; David Ladd, Director of the Office of the Great Lakes; and, Jim Bredin, Assistant to the Director of the Office of the Great Lakes. During Governor Granholm's tenure, Michigan participants included Dana Debel, Governor Granholm's Environmental Policy Advisor; Ken DeBeaussiaert, Director of the Office of the Great Lakes; and Jim Bredin, Assistant to the Director of the Office of the Great Lakes. They were joined on the Working Group by their counterparts from other State and Provincial agencies as well as staff from the Governors' and Premiers' offices. Under the Governors' and Premiers' direction, the Council of Great Lakes Governors facilitated the Working Group's discussions and other aspects of the development process.

The Governors and Premiers wanted the final package to reflect the perspectives of water users and other stakeholders, as well as the general public. To that end, an Advisory Committee was created, consisting of approximately 25 regional and national organizations who would share the perspective of their constituencies. Members of the Advisory Committee included representatives from several Michigan-based organizations including the Alliance of Automobile Manufacturers; Consumers Energy; and, the Council of Great Lakes Industries. Other organizations represented on the Advisory Committee included the American Chemistry Council; American Farm Bureau Federation; American Forest and Paper Association; Association of Metropolitan Sewerage Agencies; American Water Works Association; Canadian Environmental Law Association; Canadian Shipowners Association; Ducks Unlimited; Great Lakes and St. Lawrence Cities Initiative; Great Lakes United; Hydro Québec; Lake Carriers Association; National Association of Manufacturers; National Wildlife Federation; The Nature Conservancy; New York Power Authority; Ontario Federation of Agriculture; Ontario Power Generation; and, Union Québécoise pour la conservation de la nature. As you can see, the Governors and Premiers included a broad cross section of water users, environmental groups and others.

In addition to providing input to the Working Group, the Advisory Committee members provided information regarding the Working Group's progress to members of their respective organizations. The Working Group met with them on a regular basis via face to face meetings and conference calls as the Compact was developed. The Working Group directly incorporated specific suggestions made by the Advisory Committee.

To solicit the input of the broader public, two drafts of the Compact were released for public comment. The first public comment period began in July of 2004, and the second public comment period began in June of 2005. Over 60 public meetings around the basin were held, and over 13,000 comments were submitted. Ten public meetings were held in Michigan--in St. Clair Shores, Cheboygan, Marquette, Muskegon, Lansing (two), Sault Ste. Marie, Grand Haven, Port Huron and Detroit.

Numerous other informational meetings were held across the region both before and after the Compact was finalized. These included a number of briefings and other meetings with State legislators through the Council of State Governments, State legislative committees and other forums. Discussions with the federally recognized Tribes and First Nations in the Basin were held at both the State and Provincial level, followed by consultations at the regional level. Council staff met with staff representing various water users and took tours of water treatment plants, sewage treatment plants, steel works, and nuclear power facilities to obtain a better understanding of water users' needs. This is in addition to the numerous meetings that Working Group members had with interested parties in each of their States. In short, every opportunity was given to people interested in Great Lakes water management to have their voice heard as the Compact was developed.

### ***Conclusion***

When fully implemented, the Compact will help to retain authority over Great Lakes water management with the Great Lakes States. Achieving this fundamental goal has united the Great Lakes States in support of the Compact--a delicate compromise between varied and diverse interests across the vast Great Lakes region. The Compact promises to promote sustainable use, strengthen our region's competitive economic advantage and preserve and protect the Great Lakes now and for future generations.

Thank you for the opportunity to submit this testimony. Should there be questions, please do not hesitate to contact me: David Naftzger, Executive Director, Council of Great Lakes Governors, 35 E. Wacker Drive, Suite 1850, Chicago, Illinois, 60601; Phone (312) 407-0177; E-mail [dnaftzger@cglg.org](mailto:dnaftzger@cglg.org)

